

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 25.119

where such sales are made is contiguous to the brewery premises in the manner described in paragraph (a) of this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

[T.D. ATF-271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

### § 25.114 Exemptions from dealer's special taxes.

(a) *Brewer.* A brewer is not required to pay special tax or to register during the suspension period described in § 25.111(c), as a wholesale or retail dealer in beer because of sales, at the principal place of business or at the brewery, of beer which at the time of sale is stored at the brewery or which had been removed and stored in a taxpaid storeroom operated in connection with the brewery. Each brewer shall have only one exemption from dealer's special tax or registration for each brewery. The brewer may designate, in writing to the appropriate TTB officer, that the principal place of business will be exempt from dealer's special tax or registration; otherwise, the exemption will apply to the brewery.

(b) *Wholesale dealer.* A wholesale dealer in beer who has paid the appropriate special tax, or who has registered during the suspension period described in § 25.111(c), will not again be required to pay special tax or register as a wholesale dealer in beer because of sales of beer to wholesale or retail dealers in liquors or beer or to limited retail dealers, at the purchaser's place of business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended (26 U.S.C. 5113))

[T.D. ATF-271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

### EXECUTION OF SPECIAL TAX RETURNS

### § 25.117 Special tax returns.

Special tax shall be paid by return, and a return is required during the suspension period described in § 25.111(c) even though no tax is due. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of appli-

cable tax, shall be filed with TTB in accordance with instructions on the form.

[T.D. ATF-271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

### § 25.118 Preparation of TTB Form 5630.5.

All of the information called for on Form 5630.5 shall be provided, including:

- (a) The true name of the taxpayer.
- (b) The trade name(s) (if any) of the business(es) subject to special tax.
- (c) The employer identification number (see § 25.121).
- (d) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).
- (e) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 25.111(c).
- (f) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with the Brewer's Notice, and if the information previously provided is still current.

[T.D. ATF-271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

### § 25.119 Multiple locations and/or classes of tax.

A taxpayer subject to special tax (or required to register during the suspension period described in § 25.111(c)) for

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the same period at more than one location or for more than one class of tax shall—

(a) File one special tax return, TTB Form 5630.5, with payment of applicable tax, to cover all such locations and classes of tax; and

(b) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid or for which registration is being made during the suspension period described in § 25.111(c). The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 25.300(c).

[T.D. ATF-271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

## § 25.120 Signing of TTB Forms 5630.5.

(a) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(b) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(c) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

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(d) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

[T.D. ATF-271, 53 FR 17548, May 17, 1988]

### EMPLOYER IDENTIFICATION NUMBERS

## § 25.121 Employer identification number.

The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.113 of this chapter.

(26 U.S.C. 6109, 6676)

[T.D. ATF-271, 53 FR 17548, May 17, 1988, as amended by T.D. ATF-301, 55 FR 47605, Nov. 14, 1990]

## § 25.122 Application for employer identification number.

Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(26 U.S.C. 6109)

[T.D. ATF-271, 53 FR 17548, May 17, 1988]

## § 25.123 Preparation and filing of IRS Form SS-4.

The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

[T.D. ATF-271, 53 FR 17549, May 17, 1988]